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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,917

04/08/2004

Andrew S. Holmes

791-P-1-USA

8767

71850

7590

03/18/2009

RUSSO & DUCKWORTH, LLP

9090 IRVINE CENTER DRIVE, SECOND FLOOR

IRVINE, CA 92618

EXAMINER

GAUTHIER, GERALD

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

03/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/820,917	HOLMES ET AL.	
	Examiner	Art Unit	
	Gerald Gauthier	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 4 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claims 1-3 and 5-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Petite (US 6,430,268 B1) in view of Spencer et al. (US 6,195,243 B1).

Regarding **claim 1**, Petite discloses an alert system for requesting service of a machine which requires servicing [column 1, lines 13-16] comprising:

a sensor for detecting a machine event [A variety of sensors (15, 117--See FIG. 2) may be provided in the vending machine 110 for detecting a variety of events, column 4, lines 58-65];

a transmitter for transmitting said messages over the public switched telephone network [The transmitter 118 then transmits the data (preferably via RF link 130) to the transceiver disposed within the telephone 120. This information, in turn, is communicated from the transceiver via PSTN 140 to a central station 150, column 5, lines 1-14]; and

a trigger for transmitting said messages to a predetermined telephone number using said transmitter upon said sensor detecting a predetermined machine event [The computer 254, upon recognizing this condition, may alert the appropriate person that is to restock the machine. To this end, the computer may so notify the person by sending the person an email message, column 7, lines 30-43].

Petite fails to disclose a recorder storing one or more pre-recorded voice messages, said voice messages corresponding to machine event.

However, Spencer teaches a recorder storing one or more pre-recorded voice messages, said voice messages corresponding to machine event [Pre-recorded voice messages for specific conditions, stored within the LCM 10 or a remote terminal, may also be activated during operation of the external alarm function, column 6, lines 40-59].

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Petite using the load center monitor as taught by Spencer.

This modification of the invention enables the system to have a recorder and a trigger so that the user would receive the information signal.

Regarding **claims 2 and 6**, Petite discloses an alert system for requesting service of a machine wherein said transmitter leaves a voice-mail message with an answering system when transmitting said voice messages [column 4, lines 22-31].

Regarding **claims 3 and 7**, Petite discloses an alert system for requesting service of a machine further comprising a clock connected to said trigger, said trigger sending said voice messages corresponding to machine event at predetermined times of the day (column 4, lines 58-65).

Regarding **claim 8**, Petite in combination with Spencer disclose all the limitations of claim 8 as stated in claim 1's rejection above.

Allowable Subject Matter

5. **Claims 4 and 8** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed on December 23, 2008 have been fully considered but they are not persuasive.

7. The applicant argues in the remarks pages 5 and 6 that the reference, Spencer describes a system for monitoring and displaying the status of building circuit breakers. Spencer describes the implementation of digitally enhanced circuit breakers (DE breaker) and the use of DE breakers to analyze power line circuit conditions in a power distribution system. The system includes a central controller for downloading data from DE breakers for storage in a central memory. Further, the operating profiles of the individual circuit breakers may be adaptively reconfigured by the central controller coupled through a communication network to each circuit breaker. Historical power line data may be sampled and accumulated for selection of appropriate operating profiles or to replace data constants for operating trip profiles. The resulting data is transmitted to individuals in a variety of ways. Column 6 describes the use of an oscilloscope or digital analyzer, as well as the use of visible indicators to indicate data values or status of DE breakers. Moreover, column 6, lines 40 - 55 describe an external alarm for use in the

event of emergencies. The external alarm may be a dedicated unit or a connection to a fire department or the like. The external alarm may provide prerecorded voice messages for specific conditions stored within the LCM which may be activated during operation of an external alarm function. Of importance, there is no suggestion for the prerecorded voice messages to be transmitted in any way but audibly. Specifically, there is no suggestion within Spencer that prerecorded voice messages be transmitted over a public switched telephone network as claimed by Applicant. Furthermore, there is no suggestion that voice messages be transmitted to an answering machine.

8. The examiner respectfully disagrees. In the dependent claims 1 and 5, there is not limitations suggesting the voice messages are transmitted as data. The transmission of voicemails should be done in audible manner through the public switched telephone unless specify in the limitations. Therefore the rejection is made final

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/
Primary Examiner, Art Unit 2614

/GG/
March 18, 2009